

Town of *Dunstable* Selectboard
Meeting Minutes
September 28, 2021
Town Hall, Dunstable, MA 01827

Convened: 6:00 pm

Present: Leah D. Basbanes, chair, Kieran D. Meehan, vice chair, Ronald J. Mikol, member(s); Brian M. Palaia, Town Administrator; James W. Dow, Chief of Police; Harold Simmons, Advisory Board; Joan Simmons, Planning Board; Alan Chaney, Conservation Commission; Dr. Laura Chesson, GDRSD Superintendent; Marlena Gilbert, Rafael Glod, GDRSD School Committee; Sheila Harrington, State Representative; Lauren Rooney, Legislative Aid; Patrick Kerrigan, Fire Dept. Captain; Mike Martin, Roads Commission

Call to Order & Public Forum

Ms. Basbanes called the meeting to order. She then briefly went over the agenda which includes General Discussions with State Rep. Harrington, Discussions with the Dunstable GDRSD School Committee Members Regarding Potential Sources of School Funding, Discussion of the Draft Town Charter, Discussion Regarding the Disposition or Future Use of 91 River Street, and two Executive Sessions.

General Discussions with State Rep. Sheila Harrington

Rep. Harrington began by outlining her work for the town regarding several legislative requests. The first request she discussed was in relation to the Article 97 matter for transferring land to the Evangelical Church. She then also discussed the Rt. 113 Infrastructure Project which also had Article 97 issues that became tied up with the church. Now there have been some difficulties in the Senate. Her understanding is that Senate Counsel reached out to EEA. Her office was never informed about EEA's involvement post House passage. She has continued work with House Counsel on the matter. EEA has a policy that they want to make sure there is always sufficient mitigation for Article 97. They appear to be asking for a return to the church matter and to her knowledge this is a first considering the church's matter was passed and made law. Mr. Palaia interjected to elaborate that the law passed while we were working on the Rt. 113 Infrastructure Project and the issue of mitigation came up again. So this substantial project has become tied up. Rep. Harrington stressed that EEA cannot do that, the church matter has been legislated. It's not even a bill, it is law. Mr. Palaia acknowledged that, but elaborated on the steps taken by the town to address EEA's concerns and to move forward. EEA has reviewed the latest plans and they have a number of comments the town has responded to and it appears they may be looking at the wrong set of plans. So the town has attempted to ensure the correct plans are reviewed. And that's pretty much where things are. Rep. Harrington noted that there will be some considerations that may impact when the wash will happen. Her impression is they think that the town has to fix things. She really didn't understand that. Mr. Palaia interjected that if the church is the complication, it should be dropped. We cannot lose the Rt. 113 Infrastructure Project. Rep. Harrington noted that House Counsel tends to agree with that. She then elaborated on what steps will need to be taken by the House. This also included a brief overview of the House's current session and the timing. Mr. Palaia then asked what Dunstable needs to do. Rep. Harrington noted she's waiting for a response to an unhappy message to EEA. She then elaborated on her discussions with House Counsel and noted we have to fight a bit to get this done. She doesn't mind doing that and is committed to it. She also acknowledged this is a very time sensitive issue. Still she stressed that nothing is needed further for the church matter, it is already law. EEA is taking internal policy and attempting to make it look like regulation and then applying it retrospectively. She's never seen that. The solution to the Board's mind was to drop that if it is the problem. Just drop the church matter. If it's done then it's done.

Mr. Palaia stressed that the Rt. 113 Infrastructure Project is the most important thing here. If dropping that matter gets this done, we should do it. But he still didn't feel that it should make a difference. Rep. Harrington stressed that she is committed to getting this moving and she promised to continue to express herself to EEA. In the meantime the Board recommitted to doing what it has to do to also. Rep. Harrington then discussed the potential for a meeting between herself, Senator Kennedy, Senate Counsel and House Counsel. Her worry is that this languishes and isn't done on time. She then thanked Mr. Palaia for being a great communicator and for working so closely with her office. Mr. Palaia thanked her for her kind words and stressed that this isn't dissatisfaction by the town with Rep. Harrington, just frustration with the process. We have been responding to EEA and MassDOT as much as possible. We know that some of their requests are unreasonable, but we are dealing with bureaucracy that has rules and where argument just causes delay. Rep. Harrington noted that agencies under the executive branch can't make statutes, only regulations. Further statutes trump regulations. With that said, she also complimented Mr. Martin for his titanic efforts on this. She then also

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elaborated on work she's done with him to talk to the Lt. Governor and to try to persuade all levels of the government to make this project happen. The Board recognized the work that Rep. Harrington and others have done. Ms. Rooney then reported on the latest situation with the towns request for liquor licensing and where it stands which is currently before a House committee. Mr. Palaia then asked about the request for the Town Clerk to be appointed. It appears that there may need to be a modification to the towns request given some circumstances for the Town Clerk and the issuance of papers for the next election. Rep. Harrington responded by outlining what Groton has done and made some suggestions. The term may need to be shortened as the General Court does not like to appear to be overturning the results of an election, thus if a person is elected to the office before the appointment legislation comes into force, they would normally sit for the whole term. But that may be addressable. She highly recommended looking at what Groton and other towns have done on this front. There's no need to reinvent the wheel. She then turned to her strategy to get the legislation passed and detailed what she expected to see happen. Discussion then shifted back to the Rt. 113 Infrastructure Project. Rep. Harrington stressed that she's never experienced this kind of a situation before during her tenure and noted that there were some lapses in protocol. She wasn't informed like she should have been. She then stressed what her next steps will be. It was also agreed that Rep. Harrington would continue to have access to Town Counsel and that Town Counsel would be authorized to speak with House and Senate Counsel. Mr. Palaia then noted that the next legislative request to have high priority after the Rt. 113 Infrastructure Project is the Town Clerk one. Rep. Harrington acknowledged that and promised that everything will get back on track. Ms. Simmons asked a question about the water piping in the area and whether there is a possibility that the 104 year old pipe that's in place now would go un-replaced. Mr. Palaia elaborated on MassDOT's position noting that they'll only do so much and the rest we'd have to pay for. For that the town should be able to use ARPA funds. Ms. Harrington noted that there may be another opportunity for the General Court to provide further funding. But like most things it's not guaranteed.

Discussion with Dunstable GDRSD School Committee Members Regarding CARES Act, ARPA & Other Sources of Potential Funding for Schools

The Board started by thanking the School Committee members and Dr. Chesson for attending the meeting. Mr. Glod then explained that his Dunstable colleague on the committee could not be in attendance. Regardless, he is the main liaison between the Committee and the Board as well as the Advisory Board. Mr. Palaia then responded to some questions Dr. Chesson had concerning the questions from the Advisory Board. The town has had correspondence with multiple authorities and figures representing the district, including discussions with the Finance Director, talks about the CARES Act and ARPA. Some of the specific questions regarded funding and what has been received to date. The Finance Director has mostly helped with answers on these. There are still, however, some outstanding questions. This includes a gift request from the school district for ARPA funding. There was some confusion regarding communication over answering questions and existing commitments from Groton. Dr. Chesson elaborated on what has been received from Groton, noting the main differences are based on the timing of when funds were received by the towns and what amount was committed. Groton committed \$900,000 and those funds went primarily to salaries of staff needed to address interrupted learning, deficits from the last school year, remedial work, and the like. She also discussed some needs for building maintenance specifically HVAC which is critical for COVID-19. If the district does not receive the funding requested the district will have to focus on expenses set aside in the hopes of this funding as well as additional expenses that were unexpected. There really are a lot of unexpected costs. Mr. Palaia responded that the town appreciates that and stressed that there have likely been some miscommunications. The request that's been put forward is larger than what was originally asked for when ARPA first passed and the exact sum of funds received was unknown. The Advisory Board will need to consider the school district's request and decide how to respond. Dr. Chesson asked if they are the authority that will make the ultimate decision. Mr. Palaia responded that the Board is committed to assisting the district but usually the Board prefers on financial matters for the Advisory Board to issue a recommendation. Ms. Gilbert the noted that Groton is splitting its funds over two years for the school district and she stressed that we are facing difficult budget years. We're all at the point where we will need to face overrides. The use of E&D, the schools version of Free Cash, means the gap will only grow.

Mr. Palaia responded that Dunstable also has been forced to use its version of such funds, Free Cash, and this is also unsustainable. Ms. Gilbert acknowledged the situation for both Dunstable and Groton. Still she stressed that the district and the towns have managed to control their costs and to balance that with usage of E&D the last few years. Even if an override happens, she was comfortable with attempting to still manage the leveraging of E&D. Mr. Palaia responded that Dunstable has bent over backwards year to year and is not operating a full time government. If an override fails and we have to still fund the budget that will result in cuts to the towns basic services. Ms. Gilbert stressed that all parties need to seek open dialogue to pursue solutions. The Board clarified that as always Dunstable is limited in what it can do. That is simply the point. We haven't yet engaged in the necessary conversation as a community on a Proposition 2 ½ Override. Our Advisory Board has to begin that process, but they aren't quite there yet. Now they are talking about the matter, but things are still in early stages. Mr. Palaia suggested pushing discussions off another month or so. As for

the CARES Act and ARPA funds, he outlined where the town is. Originally the district asked for about \$160,000. But that was before the exact sums were known. The new request is around \$265,000 to \$270,000. That acknowledged the town has its own plans. There are a lot of things the funds may be used for, but the federal government has not yet made all of the rules known. It is thus hard to determine precisely what is available. Still, if we assume that things are sorted out and a recommendation is developed and we feel better, it may be possible to provide most if not all of what has been requested. Ms. Gilbert thanked Dunstable and elaborated on what Groton has done and the process it has followed. Mr. Palaia then elaborated on a few examples of things that Dunstable wants to use some of the funds for, such as work on water piping and mains to improve the water system in compliment to work being done by MassDOT. But it is still not fully clear if the funds can be expended in this way. Ms. Gilbert acknowledged that, but stressed the challenges the district is facing and the fact that its E&D funds won't be available until January 2022. So some of the needs are being felt more immediately. The Board returned to the problem for the town which is that we have many legitimate needs but it's unclear as to what and how much we can be spent. Ms. Gilbert stressed that the district can wait for a little while but will need an idea of what the town can commit by December. Dr. Chesson agreed stressing Groton's budget process requires her to submit numbers to Groton before the New Year. The Board responded by promising to be proactive on the matter and to continue discussions. Mr. Palaia noted that the ARPA money doesn't have to be used right away. Dr. Chesson stressed that Dunstable can do similar to Groton and break it up over more than one year. Mr. Palaia conceded that and noted that if there are further funds provided by Congress that may also help. Dr. Chesson then stressed that unlike the first couple rounds of relief for the pandemic, the school districts have received far less. So it's not like the district has received all this money and is looking for more. Mr. Palaia then asked about a timeline for the information Advisory Board has asked for. Dr. Chesson responded that most of that data should be known by late October. The Board floated the idea of having a definitive answer from the town by the end of October. Mr. Glod then thanked all those present for participating and sharing information.

Discussion of Draft Charter

Mr. Palaia noted that the draft copy is on the town's website on the Town Governance Committee's page. Now he noted he hasn't really pushed out this draft to town bodies yet because it's revision 15 and a revision 16 is due soon. The Board acknowledged that and noted the process so far. Prior drafts have been pushed out, but not a lot of feedback was received apart from Board of Health. Still the Board would like town bodies to look at the draft and expressed a desire to seek public comment and review. The soft target is for this to be ready for the next Annual Town Meeting. The Board noted that people who do review what is posted should keep in mind that it's a draft and still in process. Ms. Simmons requested a copy of the draft which Mr. Palaia promised to provided.

Discussion Regarding Disposition/Future Use of 91 River Street Property

Mr. Palaia reported that the town's by-laws allow a number of uses. We have placed a solar overlay on the property, but the towns hopes for solar there have fallen through for now. And that falling through had more to do with requirements of the Commonwealth as well as issues with National Grid for the interconnection. The Board noted that we had substantive property there and we sold a significant amount of it to Fish & Game. The land sold was land that couldn't be developed anyway. So the question is what to do with the remainder. We could build a park there, we could sell the land for development, or we could do a farm lease. The Board then asked itself if anything has to be done with this land. It was not of one mind as to the answer. Ms. Simmons stressed that she would hate to see any of it sold. She then asked about the potential for some of the property to go into conservation. Mr. Palaia responded that the rational for that was some protected turtles. If we'd donated the land sold to Fish & Game we could have had that land as the designated land for turtle habitat. But the Commonwealth was quick to point out that we were paid for it. Hence the need to have some of the remaining land go into conservation. But we never had to commit to that as the solar project fell through. Ms. Simmons asked if we would always have to address that. Mr. Palaia responded that it would depend on what we do with the property. If we take funds from the Commonwealth or the federal government then the turtle issue could arise again. Ms. Simmons stressed that what concerns her is the fear that this property could eventually get to the point where the town won't be able to use it. She reminded that some land near the High School was set aside for a future elementary school and then years later it was found to be upland habitat and became unbuildable. Mr. Palaia responded by outlining what the town has done and the current situation. We can let the property sit for now. What is required really depends on what is proposed and who would fund it. Mr. Chaney interjected to note that one thing the town could do for the turtle is use other land in town. Roughly a third of the town has these turtles. So we could always find land elsewhere that they are present on and preserve it. So he disputed the idea that we might permanently lose use of this property is not founded. Still he reminded we have had a lot of building in that area of town and another 11 house subdivision is already in the works. He suggested this land be kept in reserve for possible future uses such as the building of another elementary school. Mr. Palaia responded by playing devil's advocate and asked whether frontage lots could be sold. Mr.

Chaney strenuously objected to that idea. Mr. Palaia submitted that we could sell of 2-3 lots and the funds could be used to buy other land that could be protected. This would only constitute around 5-6 acres in all likelihood. The Board noted a few issues with that, the primary one being the fact that it is a onetime deal and the remaining land could become less accessible in terms of frontage. Mr. Chaney returned to the quality of the land in question and noted its various uses. Mr. Palaia returned that only a few weeks ago we were willing to build a substantial solar array. Mr. Chaney responded that the solar equipment would only be there for 20 years and there would have been ongoing revenue for the entire time in rent and a PILOT agreement. Mr. Palaia pointed out that neighbors in the area would have likely not seen a 20 year span as being temporary. The Board returned to the matter of what can be done. It isn't clear we can use it for a school. While open space is good, there was an expectation that there would be revenue coming from this parcel. We need to determine if there are any viable ideas for the property. The Board was not of one mind on the resolution and how to proceed. Ms. Simmons submitted that all of this is hypothetical and it appears all parties are experiencing dissatisfaction that the solar project has fallen through. The Board agreed with that notion.

Appointments & Resignations

The Board dispensed with this topic noting that there are no appointments to make or resignations to accept. Mr. Voelker confirmed this submitting that the item remains on the agenda just in case something comes up.

Town Administrators Report

The Board began by asking Mr. Palaia about access to the town safe. A Cemetery Commissioner has requested access to the safe via knowing the combination. Mr. Palaia recommended against this. The issue appears to be a problem between the Commission and the Town Clerk. This is supposed to be done via that office. The principal officers who know the combination are the Town Clerk and the Treasurer/Collector. Mr. Palaia stressed that he's made his position known to this Commissioner. This isn't a commentary on the person asking. We just cannot set this precedent. The Board's chair agreed to attempt mediation between the parties and to seek a resolution that way. Mr. Martin then asked about the timeframe for ARPA. Mr. Palaia responded the funds don't have to be spent until 2026. He then elaborated further on his talks with federal officials as well as Town Counsel. It appears that things would likely go in our favor, but we'll have to obtain a positive legal opinion and documentation along every step of the way.

Minutes

The Board reviewed the minutes for September 14th, 2021. Upon review the Board determined to approve the minutes.

A motion was made by Mr. Meehan to approve the minutes of September 14th, 2021, as written. The motion was seconded by Ms. Basbanes and passed by majority vote with Mr. Mikol abstaining due to being absent.

Executive Session

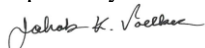
Kieran D. Meehan made a motion to enter Executive Session for purposes of discussing pending litigation (Discussion of Settlement Agreement) in accordance with MGL Chapter 30A, §21(a)3, and with the intention to immediately enter into another Executive Session subsequent. The motion was seconded by Leah D. Basbanes. The motion was adopted by majority vote by Leah D. Basbanes and Kieran D. Meehan with Ronald J. Mikol abstaining.

Kieran D. Meehan made a motion to enter Executive Session for purposes of discussing real estate (Negotiations for Town Common Land/Potential Transfer to Evangelical Church) in accordance with MGL Chapter 30A, §21(a)6, and with the intention not to return to ordinary session. The motion was seconded by Leah D. Basbanes. The motion was adopted by unanimous vote by Leah D. Basbanes, Kieran D. Meehan, and Ronald J. Mikol.

The Board entered into Executive Session at 7:36 pm

A motion to adjourn was made by Mr. Meehan at 8:15 pm. The motion was seconded by Ms. Basbanes and passed by majority vote.

Respectfully submitted by



Jakob K. Voelker, Assistant Town Administrator

Approved and adopted on 10/12/21